No. 252

In the

# Supreme Court of the United States

OCTOBER TERM, 1958

SAFEWAY STORES, INCORPORATED,

*Appellant,*

*v.*

OKLAHOMA RETAIL GROCERS ASSOCIATION, INC., and LOUIE J. SPEED, INC.,

*Appellees.*

*On Appeal from the Supreme Court of the State of Oklahoma*

## APPELLANT'S REPLY BRIEF


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Page

**Cases**

Gulf, Colorado and Santa Fe Ry. Co. v. Dennis, 224 U. S. 503 10

Parker v. Brown, 317 U. S. 341 11

Patterson v. Alabama, 294 U. S. 600, 607 10

Seaboard Airline R. Co. v. Daniel, 333 U. S. 122 8

State Farm Mutual Auto Ins. Co. v. Duel, 324 U. S. 154 9

United States v. Schooner Peggy, 1 Cranch 103, 110 10

United States v. Socony-Vacuum Oil, 310 U. S. 150, 222 12

Waters-Pierce Oil Co. v. Texas, 212 U. S. 86 10, 11

**United States Constitution**

The Fourteenth Amendment 4

**United States Statutes**

Packers and Stockyards Act, 7 U. S. Code 227 9

15 U. S. Code, 45(a)(6) 9

**Oklahoma Statutes**

Oklahoma Unfair Sales Act (Oklahoma Statutes, 1951, Title 15, Chapt. 14, Section 598.7) 4

**Miscellaneous**

CCH Trade Regulation Reports, ¶5125.11 13

Time Magazine, page 43, March 24, 1958 3

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## APPELLANT'S REPLY BRIEF

Appellant is constrained to make this reply to Appellee's brief on the merits and the brief *amicus curiae* of the National Association of Tobacco Distributors, Inc.

At the outset the facts of this case must be resolved. There appears to be greater difference of opinion as to the facts now than existed at the trial level. Appellees in their brief, augmented by the brief *amicus curiae*, have produced a scenario reminiscent of the typical TV west-

ern. There are the "good guys and the bad guys." Appellant is chagrined because it is cast in the latter role.

Appellees' opening sentence claims:

> "Safeway's original object was to capture a larger share of the Oklahoma market by cutting prices below cost on certain traffic items."

This is absolutely without basis, in fact or in the record. Statements in both briefs color the facts so as to put Appellant in the position of taking "* * * advantage of every violation (by competition), real or fancied, to grab for itself a greater share of the market at the expense of every independent grocer * * *." Appellees' brief, p. 9 (parenthetical matter added). For example, by casual footnote, Appellee says:

> "If a mama and poppa store sold chicken below cost, Safeway wanted to 'meet' that competition in all 16 of its supermarkets in Oklahoma City." Appellees' brief, p. 9.

The statement is without basis, in fact or in the record. Inflammatory and prejudicial, these charges are intended to obfuscate the issues of the case.

There was no evidence, or inference at the trial level, that Safeway was using competitors' prices as an excuse to lower its own. It was clearly agreed in the trial court and stipulated that Appellant was meeting prices; only this and nothing more. The Supreme Court of Oklahoma said Appellant "* * * set illegal prices for the *sole purpose of meeting prices of its competitors* * * *." (R. 636.) The

question was and is, whether Appellant had the right to meet a legal price below cost or to reduce its price below cost to offset the value of trading stamps given by a competitor in connection with sales made at cost.

This is not the only type of liberty taken with the record and with fact. For instance, it is stated that trading stamps have never triggered a price war. Everyone who has participated in the grocery industry since 1952 knows that trading stamps have triggered not only price wars but trading stamp wars in virtually every part of the country. See Appendix A to this Reply.

No one is more familiar with this fact than the attorneys for The Sperry and Hutchinson Company, the largest trading stamp company in the world, who are the authors of Appellees' brief. It is somewhat inconsistent to say that stamps have never triggered a price war and advertise in national magazines as Sperry and Hutchinson has done, that

> "OVER HALF OF THE NON-STAMP SUPERMARKETS HAVE LOWERED FOOD PRICES BECAUSE OF THE TRADING STAMP'S COMPETITIVE PRESSURE" Time Magazine, March 24, 1958, page 43.

The most serious retail grocery price war in the nation since World War II, the Denver, Colorado, price war of 1953, was the direct result of trading stamp competition. Stamp wars have taken place in every section of the country. See Appendix A to this Reply.

## REPLY TO APPELLEES' POINT II

It is charged that Appellant's case is based upon hypothetical cases never presented to the courts below. This claim was not made in Appellees' Motion to Dismiss. Instead, the case was argued at that level on the basis of the facts presented in Appellant's Jurisdictional Statement. In the Supreme Court of Oklahoma Appellees specifically maintained that the injunction entered against Appellant prohibited it from meeting all prices of competitors below the statutory cost to such competitors and that the meeting competition defense of the statute, Article 598.7, was exclusive. Appellees' brief in the Supreme Court of Oklahoma, pp. 15-19. Below, Appellant unsuccessfully contended that a competitor's price could be met, even if below cost, at least where the price met was lawful. This argument has been foreclosed by the Supreme Court of Oklahoma, the Court of final authority in interpreting a statute of that State. Now merchants in Oklahoma cannot meet prices of their competitors set below the statutory cost of those competitors, whether legal or illegal. The question is, therefore, exactly as it has been posed by Appellant. Does this interpretation violate the Fourteenth Amendment to the U. S. Constitution?

Appellees complain because the Supreme Court of Oklahoma did not specifically say that no price set by competitors below their cost can be met. While the opinion of the Supreme Court of Oklahoma is not a model of clarity, its holding is clear in this respect. It affirms an injunction which states that Appellant may "* * * meet in good faith

the prices of competitors who are selling the same articles or products of comparable quality *at cost to them as retailers* * * *." (R. 452.) (Emphasis added.) This Court cannot assume that this language means other than what it says, or that it does not enjoin Appellant from the precise conduct described.

If Appellee's contention that the case presented is hypothetical proves true, then in effect no appeal from an injunction will ever lie and the only way to test an injunction is by conduct violative of its terms. Appellees find themselves in the anomalous position of claiming, time and again, that Appellant's remedy initially was by way of injunction rather than price-meeting (ignoring the fact that the Attorney General had ruled and the Supreme Court of Oklahoma has now affirmed that no injunction lies), while now maintaining vigorously that the injunction may not be tested on appeal because one cannot assume that it means what it says and proscribes the conduct described.

## REPLY TO APPELLEES' POINT III

Appellees contend in Point III that selling selected traffic items at reduced prices, set to meet trading stamps, is not the same as giving trading stamps across the board, and further, that there are factual differences justifying the unique classification of trading stamps and the prohibition of price reductions. This argument places Appellees in the untenable position of saying that to meet any price of a competitor in the retail grocery industry, where individual stores sell as many as 7500 distinct items, every

price set by a competitor must be matched, otherwise the prices selected to be met will constitute loss-leaders. Such an incredible interpretation hardly comports with their statement that the statute is designed to protect the small independent from the giant chains. It is, moreover, a practical impossibility. Appellees' argument places in footnote focus the essence of Appellant's argument. The justification for Appellant's prices was the prices of competition. Can a State prohibit price competition at its only effective level?

If one grocer is selling certain items at cost and giving trading stamps with all items sold, and is on a strictly cash basis, making no sales for credit, then certainly a competing cash and carry grocer can select food items, the items with which the customers are most familiar, on which to meet prices. If it selected any other items, its effort to meet competition would have no practical significance, since the purpose of meeting competition is to convey to the customer the fact that prices are at a competitive level. To try to meet every price of a competitor would not only be illegal price following under the Federal Antitrust laws, and a wholly ineffective method of being competitive, but it would also require more price checkers in the competitor's store determining prices at which thousands of items were sold than it would checkstand operators checking out customers on its own premises.

If Appellees are right in their Point III, that the reduction must be met across the board, there would be the

further effect of reducing prices on certain items below the prices of competition since among the thousands of items on the shelves of a grocer, there is always a substantial number sold at prices lower than those of competition.

Of course, the proposition stated by Appellees works most favorably for the trading stamp companies, since the only practical way in which to meet trading stamps across the board is by giving trading stamps. This is exactly what the trading stamp companies want and is the only solution they have urged to Appellant's dilemma. Indeed, it is the solution that has been necessary for Appellant to adopt as a temporary expedient pending the determination of this case.

As its second part of Point III, Appellees contend that trading stamps afford the factual basis for a separate classification on which a state legislature can base distinctive treatment. The legislature of Oklahoma, obviously and admittedly, never in anywise considered trading stamps in passing its Unfair Sales Act. Indeed, it did not consider the discount for cash payment at retail since no such practice exists. This indiscriminate imposition of inequality without any consideration whatsoever is the ultimate exercise of arbitrary power. It is not misreasoned, it is wholly unreasoned. Its operation is pure caprice.

## REPLY TO APPELLEES' POINT V

Appellees' Point V is identical procedurally with its argument in its other points. First it says the question is not before the Court. Second, even if it were, it has no merit. This is the preemption question. Overlooked is the fact that the question involves jurisdiction of the subject matter. Jurisdiction of the subject matter cannot be waived. It is the first question passed upon by every court and dispositive of a case whenever raised. Thus must the courts enforce jurisdiction. See *Seaboard Airline R. Co. v. Daniel, 333 U. S. 122*, where Mr. Justice Black, speaking for a unanimous Court, said:

> "The complaint largely relied on an order of the Interstate Commerce Commission as a basis for the relief sought. The answer questioned the validity and scope of that order but did not seek a decree to set it aside or suspend it. Federal district courts have exclusive jurisdiction of suits to enjoin, set aside, annul or suspend an order of the Commission. In such suits the United States is an indispensable party. 28 USCA § 46, 7 FCA title 28; § 46. Although the jurisdiction of the South Carolina Supreme Court was there conceded, and is not here challenged, we think it appropriate to pass upon it."

Moreover, the continuing jurisdiction of the Court by virtue of the injunction below and the necessity for a final determination of this question makes the only reasonable judicial administration to be determination of this question at this time by this court. The question is federal and this Court is the final authority.

In addition, since this case was docketed, there has been an amendment to a federal statute which preempts the

field; the amendment to the Packers and Stockyards Act, September 2, 1958, *7 U. S. Code 227*. Because of powers delegated to the Secretary of Agriculture under the Packers and Stockyards Act *(7 U. S. Code 181, et seq.)*, jurisdiction of the Federal Trade Commission over retail sales by grocers packing, processing and handling substantial quantities of meat was limited. See, *15 U. S. Code, 45 (a) (6)*. The limitation was removed and clear Congressional intent to cover retail sales of grocery chains was shown by the amendment to the Packers and Stockyards Act of September 2, 1958:

> "(a) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this chapter is made subject to the power or jurisdiction of the Secretary, as follows:
>
> "(2) In an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding." 7 U. S. Code 227.

If the field in which this injunction operates is in effect now preempted by that statute, or indeed by any other federal statute, the injunction cannot stand. *State Farm Mutual Auto Ins. Co. v. Duel, 324 U. S. 154:*

> "We have frequently held that in the exercise of our appellate jurisdiction we have power not only to cor-

# INDEX

Reply to Appellees' Point II .....
Reply to Appellees' Point III .....
Reply to Appellees' Point V .....
Conclusion .....
Appendix A .....

rect error in the judgment under review but to make such disposition of the case as justice requires. And in determining what justice does require, the Court is bound to consider any change, either in fact or in law, which has supervened since the judgment was entered." *Patterson v. Alabama*, 294 U. S. 600, 607.

"* * * if, subsequent to the judgment, and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law must be obeyed, or its obligation denied. * * * In such a case the court must decide according to existing laws; and if it be necessary to set aside a judgment, rightful when rendered, but which cannot be affirmed but in violation of law, the judgment must be set aside." *U. S. v. Schooner Peggy*, 1 Cranch 103, 110. See *Gulf, Colorado and Santa Fe Ry. Co. v. Dennis, 224 U. S. 503.*

On the merits Appellees and their *amicus* diverge on the preemption question. Appellees contend that the Federal Government has not preempted the field and that the states are free to act as they see fit to prevent unlawful combinations, restraint of trade and monopolies. Appellees rely on two cases in support of this position. The first case is *Waters-Pierce Oil Company v. Texas, 212 U. S. 86.* Ignored is the fact that the *Waters-Pierce* case was submitted to the jury specifically to exclude restraints in interstate commerce. The charge read, in part:

"* * * The anti-trust laws of Texas have no reference to agreements or pools or arrangements of any character concerning subjects of interstate commerce, and no agreement, pool, or other arrangement, if any, which the defendant may have entered into with reference to the sale of any subject of interstate commerce can be considered by you as violating any anti-trust law of Texas." *Waters-Pierce, op. cit., 99 through 100.*

Further, the Supreme Court said in its opinion:

> "* * * These findings of facts are conclusive upon us, and show that the conviction was had for acts and transactions committed and carried out within the State of Texas." *Waters-Pierce, op cit., 105.*

In short, the opinion was limited explicitly to intrastate conduct.

The other case relied upon is equally inapposite. *Parker v. Brown, 317 U. S. 341,* did not involve a state statute seeking to regulate competition and monopoly. It was a conservation statute designed to prevent economic waste in the marketing of agricultural products. The California Act did not stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress in passing the Federal antitrust laws. Both the California Act and the Federal acts could move freely within the orbit of their respective purposes without infringing one upon the other. The case is cited by Appellees for the proposition that the Sherman Act cannot "restrain a state or its officers or agent from activities directed by its legislature." Of course preemption cases arise only where a state attempts to regulate conduct in a field occupied by Federal laws. Thus every preemption case involves the attempts of the state to regulate conduct which it is contended is within the exclusive jurisdiction of the Federal Government.

Appellees' *amicus* takes the position that the Oklahoma Unfair Sales Act is constitutional, because it is supplementary to and not in conflict with the Federal policy as expressed in the antitrust laws. In this respect it states

that the Unfair Sales Acts do not attempt and are not intended to set or fix uniform prices. The record below shows that this was precisely their effect in the State of Oklahoma (R. 117, 357).

In *United States v. Socony-Vacuum Oil Company, 310 U. S. 150, 222*, Mr. Justice Douglas, speaking for the Court, said:

> "Nor is it important that the prices paid by the combination were not fixed in the sense that they were uniform and inflexible. Price-fixing as used in the Trenton Potteries Co. Case has no such limited meaning. An agreement to pay or charge rigid, uniform prices would be an illegal agreement under the Sherman Act. But so would agreements to raise or lower prices whatever machinery for price-fixing was used."

The *amicus* brief goes on to claim that "unreasonably low prices" as used in the Robinson-Patman Act means "a sale below cost." Brief, p. 29. This is not so. Unreasonably low prices may be above or below cost, but even if the Robinson-Patman Act prohibited, or was interpreted as prohibiting sales below cost, how can it possibly have intended the statutory costs enacted by the State of Oklahoma in 1949? The intricate formula for arriving at cost under this statute, which includes among other things, a 6% mark up over invoice and other costs, is far from cost in the ordinary connotation. It is a special statutory creature, wholly different from anything found in the Federal antitrust laws.

Nor is the brief of *amicus curiae* accurate when it says that the grocery industry trade practice rules promulgated by the Federal Trade Commission are advisory and without sanction. The Federal Trade Commission has acted

in a number of cases to prohibit selling below cost. See, Commission Rulings involving sales below cost listed in CCH Trade Regulation Reports at ¶5125.11, which include aluminum, brick and building tile, drugs, tobacco products and notions, ice cream, snap fasteners and yeast.

Rather than belabor this point we would quote M. A. Adelman, who has said:

> "There is no need even to discuss the resale price maintenance legitimized by the Miller-Tydings Act, nor the collusive price fixing permitted and encouraged in thirty-one states by laws against 'selling below cost.' The latter, it has been suggested, ought to be challenged in the federal courts as being in conflict with the antitrust laws of the United States. Certainly the divergence in economic policy could not be greater." 61 H L R 1289, 1349 (1948).

## CONCLUSION

For the reasons stated it is respectfully submitted that the judgments of the courts below should be reversed and the permanent injunction vacated.

Respectfully submitted,

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## PROOF OF SERVICE

I, Ramsey Clark, one of the attorneys for Safeway Stores, Incorporated, Appellant herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 15th day of May, 1959, I served copies of the foregoing Reply Brief on the several parties thereto, as follows:

On Oklahoma Retail Grocers Association, Inc., a corporation, and Louie J. Speed, Inc., a corporation, by mailing copies in duly addressed envelopes, with airmail postage prepaid, to their respective attorneys of record, as follows:

Miskovsky & Miskovsky, Hightower Building, Oklahoma City, Oklahoma;

William J. Holloway, Sr., First National Building, Oklahoma City, Oklahoma;

Looney, Watts, Looney & Nichols, First National Building, Oklahoma City, Oklahoma;

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## APPENDIX A

Trading stamps involved the retail grocery industry in its greatest competitive struggle in the mid-fifties. The struggle continues today. The retail grocery industry in Oklahoma is at this time virtually saturated with trading stamps. The purpose of this Appendix is to show that trading stamps have involved the industry throughout the nation in innumerable wars involving stamps and prices.

The Legislature of the State of Oklahoma, in reenacting the Unfair Sales Act in 1949, after its invalidation by the Oklahoma Supreme Court, gave absolutely no consideration to the trading stamp problem. Trading stamps were never mentioned. The subsequent interpretation of the statute prohibiting, on the one hand, a merchant from meeting the net price of his competitor giving trading stamps while refusing, on the other, an injunction against the stamp-giving merchant, does not encompass any purpose before the Legislature when the Act was passed. It is in effect a wholly arbitrary imposition, without reason or design. It operates in the area of the most significant competitive struggle of recent years. So capricious a determination cannot stand.

The following materials were taken at random, primarily from retail grocery trade publications. They scarcely touch the vast printed material covering the subject and are included here to illustrate the problems created by trading stamps which any legislative body would have to consider to effectively protect the public.

1. "Stamp War Hits New York as A & P Slashes Prices." (headline.)

"The trading stamp war has finally erupted in New York City * * * The New York explosion occurred last week when the giant Atlantic and Pacific food chain took full page newspaper ads to announce dramatic price cuts. Supermarket News reports that the reductions run 'about 2% on a storewide basis' * * * The battle is raging in nearby Philadelphia, in upstate New York, and across the river in New Jersey." *Business Week* magazine, Febr. 4, 1956, page 93.

2. "Ads, Low Prices, and Promotions—Three Weapons to Fight Stamps." (headline.)

"D'Agostino flatly advises 'Save money, Not stamps' " * * * Low prices, stamp foes assert, is the one merchandising weapon that can always meet the challenge of stamps." *Food Topics*, June 18, 1957, page 27.

3. "Black Gold Stamps Enter Grocery Fray in Houston Market" (headline).

"Latest move in the trading stamp war in the Houston area is the introduction by Morris & Sewall, wholesale distributors, of trading stamps on the labels of its private brand line. The other major regional chain, Weingartens, counters with low prices and related ads." *Advertising Age*, September 3, 1956, page 32.

4. "Minneapolis—A year old trading stamp competition here has been intensified with the start of stamp distribution by National Tea and Big Ten Stores." *Food Topics*, July 5, 1954, page 3.

5. "A & P Starting Discount Plan in Erie, Pennsylvania" (headline).

"Erie, Pennsylvania. Some trade observers here describe the A & P device as retaliation against stamps offered by the four G & H supers and Cooks Super Markets. The chain at the same time pushed such come-ons as reductions, including a bread price cut from two loaves for 29¢ to 5¢ for a loaf." *Food Topics*, May 2, 1955.

6. "Ohio Still in Trade Stamp, Rumor Grip" (headline).

"Dayton, Ohio. Between whispers of new mergers in the making and rumors of stiffer stamp battles ahead, local trade circles are not sure where to look next * * *. And Toledo, which has been in the trade news frequently of late for its highly-charged stamp battles, is at it again * * * Almost every super in Toledo, except A & P and Bellman's, is offering some sort of trading stamp or premium plan." *Food Topics*, October 24, 1955, page 3.

7. "Boston Stamp Battle Continues, Live Elephants Called In" (headline).

"As the battle continues, the chains are taking full-page ads and pointing up the advantages of their particular stamp plan." *Food Topics*, October 24, 1955, page 3.

8. "Trading Stamp War: A National Roundup" (headline).

"*Cincinnati*—Kroger credited 15-20% volume rise to giving stamps. Thriftway of that city cut prices to meet the stamps."

*Los Angeles*—A grocer comparing trading stamps to low price, hard merchandising gave stamps the advantage saying, "They keep shoppers from running all over town for bargains."

"*Chicago*—While retailers appear overwhelmingly determined to block the entry of stamps locally, justification for their nation-wide mushrooming is offered here * * *."

"'*West Coast*—Littleman chain: 'When we wish to offer extra special customer inducement, we run price specials * * * Stamps mean extra work for our already hard-working clerks. Stamps tie up our line. Stamps mean added bookkeeping. We feel you just don't have to do this sort of thing to sell good merchandise!"

"*Philadelphia*—'Food Fair has found it necessary to meet competitive trading stamp promotions * * *. In the two principal areas in which this has become necessary, we made it clear that while we would not be the first to adopt stamps, we would certainly be a very fast second'." *Food Topics*, June 4, 1956, page 2.

"It's about time some responsible governmental agency turned its attention to this parasite * * *. We believe the entire food industry * * * would welcome a law which would finally and for all time eliminate this evil. *Pennsylvania Grocer*." *Food Topics*, June 4, 1956, page 2.

9. "Halt Stamp War in Denver."

"Stamp company officials stepped in last Monday to bring to a halt Denver's bitter 'Battle of Stamps', one of

the most fantastic battles ever staged by food chains here." *Supermarket News*, October 12, 1953, page 1.

10. Chicago—"Disadvantage of trading stamp plans outweigh their advantages. This was the prevailing view at a panel discussion held by the National Association of Food Chains during its annual meeting here last week * * * no one gains but the stamp operator * * * Disadvantages listed were: High cost of stamps; slowdown of the checkout procedure; difficulty of discontinuing the plan once started; handling, storage and prevention of theft of the stamps * * *. The current situation in Denver was cited, these stamps are being offered on the basis of 'Triple Stamps Three Days a Week'. It was said to be prohibitive in cost and beyond control in Denver where seven different plans are under promotion * * *. Estimates by supermarket operators who tried stamp plans revealed that an increase in business of at least 33 per cent was necessary to make the plan pay." *Supermarket News*, October 5, 1953, page 14.

11. "Quadruple Stamps: Denver Armistice Wishful Thinking." (headline). *Supermarket News*, October 5, 1953, page 1.

12. "Stamp-Givers Add More Promotions" (headline).

*New York:* "It's recalled here that when stamps first moved in with any force here last spring, A & P embarked on a great price slashing campaign that was eventually to spread to many stamp-saturated areas in its operating areas."

*Grand Rapids:* "All the leading supermarkets give double stamps on Wednesdays to meet competition."

*San Antonio:* "All major groups here use them. All observe double stamp Wednesday." *Supermarket News*, December 10, 1956, page 10.

13. "Conference on Stamps at N. Y. State Level Develops Into Battle." (Headline.)

"The Third Street Cash Market had lost 50 per cent of his business to stamp carrying supermarkets." *Supermarket News*, October 8, 1956, page 4.

14. "Kroger Meets Double-Stamp Fire with Fire" (headline). *Supermarket News*, May 7, 1956, page 12.

15. Genetti's four store chain of Hazelton, Pa., ran ad stating, "$103,642.00 in S & H Green Stamps given to Genetti's Customers in 1954." *Supermarket News*, January 17, 1955, page 17.

16. "Fear Statewide War By Oklahoma Stores" (headline).

"Fanned to fever pitch by recent Sunday openings of chains and general tightening of competitive grocery business, the local upswing of trading stamp usage threatens to break into statewide war with the introduction of a measure into the Oklahoma Legislature that seeks to restrict the use of trade stamps and coupons by retailers of the state * * *. The bill introduced by Rep. B. F. Hill, a grocer of Okemah, would impose a tax * * *." *Supermarket News*, April 13, 1953, page 24.

17. Cover picture and article titled "Marketing's Irresistible Temptation: Trading Stamps", *Business Week*, May 17, 1956, pp. 43-60.

18. "Trading Stamps Become a Sticky National Question." *Life*, March 4, 1957, pp. 114-126.

19. "Ottawa Stamp War Seen as RMA Continues Fight." *Premium Practice* magazine, December 1956, page 43.

20. "Reactions are invariably slow in the huge retail food industry, but it is apparent that a wave of retaliation to stamp plans by non-stamp stores is sweeping the country. This retaliation is taking many forms, but most prevalent are the following, according to PROGRESSIVE GROCER'S check of hundreds of leading operators from coast to coast. Dealers report that these are the steps they are taking to maintain and to increase customer traffic and volume:

Newspaper coupons offering substantial price cuts in specified items.

Prominent featuring of straight price specials.

Store drawings for major prizes.

Cash register tape plans (giveaways and self-liquidators).

Cash rebates based on percentage of register slip totals."

*Progressive Grocer*, September 1956, page 72.

21. "The Battle of Trading Stamps" (headline). *Southern California Grocers*, October 16, 1953, page 4.

22. "New Type of Price War" (headline). "Trading Stamps are an expensive gimmick, creating no product, but making customer think he is getting something for nothing" (sub-headline). By Anthony E. Madler, Managing Director, Wisconsin Food & Tobacco Institute. "In Wisconsin, a new type of food price war has gained momentum in the last two years * * *. Stamps are likely to lead to price wars, resulting in price cuts which the small merchant cannot absorb." *Wisconsin Food Dealer*, February 1956, pp. 3-4.

23. "Stamp 'War' Heats Up North and South Ohio" (headline). *Food Topics*, October 10, 1955, page 1.

24. "Horror Story" (headline). "Denver Trading Stamp War Demoralizes Retailing, increases Costs of Doing Business, and Ends in Stalemate" (sub-headline). *National Association of Retail Grocers U. S. Bulletin*, December 1953, page 32.

25. "Big Chain Stamps Hit Atlanta: Huge Fight Seen." (headline).

"The pressure being created by the stamps brought many food men to comment that 'before it's all over, there will be a stamp war to the finish'." *Food Topics*, November 7, 1955.

26. "Can Trading Stamps Help Business?" (headline).

"Stamp wars have raged in other parts of the country." *Pacific Northwest Grocer and Meat Dealer*, August 1954.